

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4281 of 1995

to

FIRST APPEAL NO.4290 OF 1995

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil J

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DY. COLLECTOR

Versus

CHAUDHARI AVCHALBHAI SHAMALA BHAI, DECD. THRO. HIS HEIRS

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Appearance:

MR SJ DAVE, AGP for Appellants

MR BG PATEL, for Respondents-claimants.

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CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 20/04/98

ORAL COMMON JUDGEMENT ( PER: Y.B. BHATT,J )

On a joint request of the ld. counsel for the respective parties, these appeals are taken up for final hearing today.

2. These are appeals filed by the State of Gujarat

under Sec. 54 of the Land Acq. Act read with Sec.96 of the CP Code, challenging the common judgment and awards passed by the Reference Court under Sec.18 of the said Act.

3. The lands in question are located in the village Koyalapur, Ta: Danta, Dist.: Banaskantha and were acquired for Dharoi Irrigation Project.

3.1 The relevant notification under Sec.4 of the said Act for the purpose of the said acquisition is dated 4.10.1973. After going through the necessary procedure, the Land Acq. Officer under his Award under Sec.11 of the said Act, awarded compensation at the rate of Rs. 8154/ per Hectare for irrigated lands, Rs. 5683/ per Hectare for non-irrigated lands and Rs. 100/ per Hectare for Kharaba lands. The landholders- original claimants not having accepted the awards, preferred References under Sec.18 of the said Act. The Reference Court, after recording the evidence and hearing the parties, by the impugned common judgment and awards, determined the market value of the acquired lands at Rs. 20,000/ per Hectare, that is to say, Rs. 200/ per Are. It is this valuation of the market value by the Reference Court which is the subject matter in the present appeals.

4. The impugned judgment, taken in its overall perspective, is in our opinion, not assailable. We agree with the assessment of the evidence on the part of the Reference Court, conclusions drawn therefrom and the findings of fact recorded.

5. However, we do not propose to dismiss these appeals merely on the logic and reasoning adopted by the Reference Court.

5.1 Some other decisions of this Court including the decision of this very Bench are also relevant in this context as under :-

(i) This very Bench has decided a group of First Appeals namely First Appeal Nos. 4721/96 to 4737/96 by the judgment and order dated 2.4.1998. In this decision pertaining to village Santoda, we had taken into consideration the relevant notification under Sec.4 dated 23.5.1973. In the said decision, we had taken into consideration, seven other decisions of this Court and ultimately determined the market value of the irrigated lands of village Santoda on the date of relevant notification under Sec.4 at Rs. 258/ per Are. In this context, it is to be noted that there is no controversy and in fact it is a common ground that the proximity of

the villages results in the same fertility and same agricultural yield amongst each village taken into consideration, both in the said decisions as also in the instant decision. For this reason, a distance of approximately 10 kms. from each other is, therefore, of no consequence, and if at all some variation in the determination of the market value could arise, it would only be because of the difference in the date of the relevant notification under Sec.4 of the said Act. Thus, in the instant case, the Reference Court has determined the market value at Rs. 200/ per Are both for irrigated lands and non-irrigated lands, on the basis of Sec.4 notification dated 4.10.1973, whereas in our aforesaid decision pertaining to village Santoda, the same has been valued at Rs. 258/ per Are for irrigated lands on the basis of Sec.4 notification issued just a few months prior to the instant notification. Thus, if at all some variation is justified, the market value in respect of the instant acquisition could have been slightly higher than the market value of the lands of village Santoda as determined in our aforesaid decision. However, the Reference Court has awarded only Rs. 200/ per Are as against Rs. 258/ per Are determined by us in the aforesaid decision. This determination of the market value by the Reference Court in the instant case, cannot possibly be said to be excessive or on the higher side.

6. There is another decision which is also relevant in the context of the instant group of appeals.

6.1 The lands situated in village Jitpur, Ta; Danta were acquired for the very same project by a notification dated 22.7.1971, that is to say, approximately two years prior to the notification in the instant case. In that acquisition, the Reference court had determined the market value at Rs. 200/ per Are, and the said judgment of the Reference Court was challenged by way of FA Nos. 4390/95 to 4444/95, which was decided by one of us (Y.B.Bhatt, J ) by the judgment and order dated 30.8.1996. By the said judgment, appeals filed by the State were dismissed and the market value at Rs.200/ per Are was confirmed. It thus transpires that the lands of village Jitpur which were under a notification two years prior to the instant lands, were also valued at Rs.200/ per Are. Under these circumstances, the valuation put by the Reference Court in the instant acquisition at Rs.200/ per are, cannot in any manner, be said to be excessive.

7. No other contention is raised.

8. These appeals are, therefore, dismissed with no

orders as to costs.

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